

ENTERED

September 28, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CALEB MOUTON,

Petitioner,

VS.

LORIE DAVIS

and

STACY LEBLANC,

Respondents.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:20-CV-2784

ORDER OF DISMISSAL

Caleb Mouton filed a *pro se* petition for a writ of habeas corpus on August 7, 2020. On August 11, 2020, the Clerk's office issued a notice of deficient pleading, noting that Mouton failed to pay the filing fee or file a properly supported motion for leave to proceed *in forma pauperis*. Mouton was ordered to so move or pay the filing fee by September 10, 2020. The order specifically warned Mouton that failure to comply could result in dismissal for failure to prosecute. Mouton has not yet complied with the order.

A district court may *sua sponte* dismiss a lawsuit for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1190 (5th Cir.1992). "This authority is based on the 'courts' power to manage and administer their own affairs to ensure the orderly and expeditious disposition of cases." *Id.* at 1190-91 (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)).

Petitioner's failure to comply with the notice of deficient pleading forces the Court to conclude that he lacks diligence in prosecuting this action. Therefore, under the Court's inherent power to manage its docket, this Court concludes that dismissal for want of prosecution is appropriate. The petitioner is advised, however, that relief from this order may be obtained

under Federal Rule of Civil Procedure 60(b) upon a proper showing. Accordingly, it is ORDERED that this action is DISMISSED WITHOUT PREJUDICE for want of prosecution.

The clerk shall provide a copy of this Order to the parties.

It is so ORDERED.

SIGNED on this 28th day of September, 2020.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge